



# THE COPIE OF A LETTER

From an Vtter-Barrister to his speciall Friend,  
concerning Lieutenant Col. *LILBURN'S*  
Imprisonment.

Sept. 1645.

*Kind Sir:*

**O**Ut of the firm confidence and certain knowledge which you seem to have of the integrity and honesty of Lieutenant Colonell *Lilburne*, and that his Letter of the 25th. of *July*, contains nothing but truth, I send you here my Sense and Opinion concerning his Imprisonment.

And for the clearer explanation of what you demand, and our better understanding of one another, I conceive it necessary that we be at a point upon these two things: First, what the House of Commons is: Next, for what end and purpose they are conveened and called together.

I beleeve you agree with me, that the House of Commons is nothing lesse, then the representative Body of the People, elected and sent up, by the severall Shires and Burroughs respectively (*and joyned with the two other States*) of capacity to make, alter, abrogate Lawes, as occasion shall require; to heare and relieve the Grievances of the people, and to reforme what is amisse in the Commonwealth.

Here is the Character and description of the House of Commons (which themselves (I think) will allow of) and here is the end and purpose for which they serve.

In this description you may plainly see, two Bodies of the people; the representative and the represented, which together make up the Body of the Commonwealth; and of this latter, Lieutenant Colonell *Lilburne* is an eminent member.

Now, for any man to imagine that the shadow or representative is more worthy then the Substance; or that the House of Com-

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mons is more valuable and considerable, then the Body for whom they serve, is all one as if they should affirme, that an Agent or Ambassadour from a Prince, hath the same or more authority, then the Prince himselfe, *which in matters of Proxie for Mariage, I believe no Prince will allow of.*

I will not undertake to define the limits of power or extent of Parliaments, having found the practice in my reading more or lesse, lengthned or shortned (*like a pair of Stirrops*) according to circumstances, and current of times, or the weaknesse or power of the Prince under whom they serve, who hath for the most part subjected them to his will, and made them act his Designes.

Neither will I goe about to cast the apple of Division betwixt the People and their agents, who should be linkt together by common interest and mutuall respects of common preservation; yet this much I cannot forbear to intimate, that the one is but the servant of the other, the House of Commons, I meane of the People elected by them, to provide for their welfare and freedoms, against all inbred tyrannie or forraign invasion, which by reason of their numbers, they cannot conveniently doe in their owne persons without hazard both of confusion and desolation.

But to come to our businesse, Mr. *Lilburne* complains, that Three times since the first of *May* last, he hath been imprisoned by Authority from the House of Commons, before he knew the Accuser or Accusation, or was suffered to speak one word in his own defence: Certainly, Theeves and Murtherers, taken in *Flagranti delicto*, in the very act of a *baynous crime*, are not thus hardly dealt withall.

This calls to my minde the very words of a Member of the House, Mr. *Edward Stephens* by name, uttered with passion openly in Westminster hall, in a case of the like injustice, viz. *That we have not withdrawnne our selves from our obedience to the King, to yeeld our selves slaves and vassalls, to the tyranny of our fellow-subjects.*

But you will say, how shall we amend our selves, we have given our selves, lives, liberties, and all into the Parliaments power?

To this I answer, That this free and abandoned confidence of ours, whereby they are intrusted with all that is dear and precious unto us, ought the rather to oblige them to a tender and conscientious care of the dispensation of that power.

Besides this sovereign or legislative power (which they make use  
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of) is not lent them for the ruine and destruction of our Lawes and Liberties (*no more then the Kings Prerogative*) but for the edification and strengthening of the same in particular, as well as generall.

The abuse and overflowing of this power, is odious to God and man; for Princes, or what State soever, when they arrogate to themselves an unlimited jurisdiction, to degenerate into Tyrants, and become *Hostes humani generis*, enemies of mankind.

And the Angels (which would be like the most high) were by his just judgement changed into the most wretched of all creatures: It belongs to God, and to God alone, to rule the law of his blessed will.

As for *Princes* and States, when they breake out into exorbitancy, and will be imitators of the power of God, in governing by an uncircumscribed authority, they run themselves into inevitable mischiefs, and the people (whom they serve) into unavoidable inconveniencies, and this comes to passe of necessity; for every State governed by fantastical and Arbitrary power, must needs be floting, inconstant, and subject to change; besides, man is naturally ambitious and apt to encroach and usurpe upon the liberty of his inferiours.

Hence is derived that excellent maxim, *Melius sub iniquissima lege, quam sub aequissimo arbitro vivere*; It is better to live under a rigorous and unjust law, then an Arbitrary government though just, the reason is, because by the first, he is at certainty, and knows what he must trust too, the last leaves him uncertain, and so in danger.

But to return to Lievtenant Collonel *Lilburne*, who stands imprisoned by a Vote of the House of Commons for refusing to answer to the Committees Interrogatories, before cause shewed of his former imprisonment.

I am informed by some Members that this Vote was obtained by *Bastwicke* surreptitiously, when the House was thin and empty; and therefore I conceive he may appeal from the House thin and empty, to the House full and compleat, if this will not be accepted of, why should he not appeale to the people?

For *Buchanan* an author without reproach in his Booke (*De jure regni apud Scotos*, concerning the *Scottish* Laws) doth boldly and positively affirme, *Supremam potestatem esse in Populo*, the Supream power to be in the people.

And before *Buchanan*, the Common-wealth of *Rome* (which remaineth a patern and example to all ages both for Civill and Military government) I say this Common-wealth in its best perfection did allow of this refuge or appeale to the People.

To this purpose, *Titus Livius* an unreproueable Author, speaks in these termes, *Decad. 5.* of his History. *C. Flaminius* was the first (as one of the first) that understanding the Majesty of *Rome* to be indeed wholly in the people, and no otherwise in the Senate, then by way of delay or grand Commission, did not stand highly upon his birth and degree, but made his addresse to the multitude, and taught them to know and use their power over himsele, and his fellow Senators in reforming their disorders: For this the Commons highly esteemed him, and the Senators as deeply hated him, &c.

But I hope the Wisdome and Providence of the Parliament will prevent these extremities; yet I cannot but put them in remembrance, that small sparkles do oftentimes occasion great fires.

And that the English Nation is sensible of nothing more then the breach of their liberties, and of violence offered to the freedome of their persons.

Witnesse the *Magna Carta* thirty times confirmed by the Princes of this Iland; and witnesse the cheerfull readinesse of the people to serve the publique in this present great quarrell.

And let no mandream that the Parliament may trench boldly thereon without check. A silly conceit, and aggravating the offence: For a dog that devoureth his owne kind, we account more unnaturall then a Lion or a Bear of another kind; besides the heart burning which is easily kindled when our own fellows domineer over us.

There are but two things of ruining a people, either by fear or love, the first may be more agreeable to Master *Corbis*, as sutable to his gallant and imperious nature, or to Sir *Robert Pyes* Canine humour, but is brittle, and will last no longer then the foame which supports it. The second, of love, is safe and durable.

*Camillus* the Roman speaks of it in two words, *Firmissimum imperium quo obediens gaudens*, the most stable lasting government under which the people rejoyce and live cheerfully.

But *Lilburnes* case is singular, that a member of the body represented, a free born subject, in life and conversation without exception. Considerable



siderable both in his actions and sufferings in this great cause, that such a subject contrary to the tenor of *Magna Carta*, contrary to the late Covenant and Petition of Right, yea and the direct rule alleadged in Scripture, should be three times imprisoned without shewing cause by a Parliament professing Reformation, and defence of our Lawes and Liberties, and without any urgent or apparent necessity of State enforcing it.

This I professe is to me a riddle beyond all that this monstrous age hath brought forth; I need not say how much the publicke liberty is wounded in the injury doubled and trebled upon their fellow member, nor the consequences thereof, which if drawn into president, who can count himselfe free? Nor the consequences of a wicked sentence (which as Chancellor *Bacon* saies) is infinitely worse then a wicked fact, as being held a president or paterne, whereby oppression beginning upon one, is extended as warrantable upon all.

And this conclusion he draweth out of this place of Scripture, *Fons turbatus pedet vena corrupta, est justus cadens coram impio*. A just man falling into the hands of the wicked, is like a fountaine troubled with the foot, or the urines corrupted in the body.

The horror of this sentence hath stricken the generality of the people with amazement, to behold the Kid seething in the milke of the Damme, that is to say, the Chambers of Justice ordained for our comfort, preservation, and safety, unkindly wrested to enslave, ruine, and destroy us.

Surely after ages when they shall ponder these proceedings in cold and sober bloud, will be ashamed to own the actors for their parents or predecesors: And it is to be feared that the stones from the pavement, will rise in judgement one day against the abusers of the trust committed unto them.

And let no man deceive himselfe, to thinke with senselesse and frivolous distinctions to award the dishonor and danger, which may arise to the Parliament hence; as to say that the Great Charter is but suspended as to *Lilburne*, but not abrogated; and that the duty of the Parliament is to provide for generalities, but is not at leysure to attend particular greivances: these answers satisfie none but Ideots, or those that suck profit under their command.

I mentioned before the danger and dishonour arising to the Parlia-

ment hereby, which of necessity must ensue; for seeing that *Omne Imperium in consensu & assensu parentium fundatur Plinius, Paneg.* All lawfull Empire or Sovereigne command hath its basis or firm foundation in the consent, approbation and good liking of the people; a rule without exception.

What consent or good liking can be expected from those who daily see themselves abused in their liberties, and ruined in their Estates? Nay, what hope of redresse, when as our Petitions will not be accepted without great friends in the House? To be short, it is not credible that either people or person, in any outward condition under which they mourne, sigh, or groan, will continue any longer therein, then they have occasion of good termes to be delivered, according to the saying of *Liv. lib. 8. Non credibile est illum Populum, vel hominem denique, in eâ conditione, cujus cum pœniteat, diutius quam necesse sit mansurum.* Hence it must necessarily follow, that the multitude toucht to the quick in their liberties and means of living, will be easily perswaded to shake off all Bonds of obedience, so necessary to the Magistrature, and to cast the blame of their sufferings upon the Authors, either as false to their Trust, *uncapable of the great weight of Authority* committed unto them: For who but a mad man will yeeld obedience unto those, who are regardlesse of their Laws and Liberties, or negligent of the means of their Subsistence, Livelihood, and Safety? the maine and only ends for which they are convened and called together; and not to provide Offices for themselves, or to sollicite the Causes of their particular friends, sometimes the greatest Enemies of the State.

I beseech you, passe not lightly by these Considerations as idle and vaine feares; for who shall hinder the multitude, if stung with a lively sense of their lost Freedomes, and means of subsisting; they shall endeavour the re-gaining thereof by some sudden attempt, seeing that (if the worst happen) they cannot be in much worse condition then they now are: As to the Committee for Examinations (mentioned in Mr. *Lilburns* Letter) which ought to be the Touchstone, whereby to discern Gold from counterfeit: And in equity and reason ought to be free, equall, and open as well to the Plaintiffe, as Defendant, especially in Criminall Causes: But in cases of Treason, or which concern the Publique safety, ought rather to lend an attentive  
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care to the *Delators* or *Accusers*, then any way to discourage them : For if these necessary evils shall be disheartned, who will watch over the safety of the State ? Besides, it is more safe and tollerable in the condition wherein we now are, that a mischief should happen to one man, then a ruine to a whole Kingdome.

As to this Committee, I wish from my soule, that Lieutenant Colonel LILBURNE were the only complainant against them : Let *Westminster-Hall*, the *Exchange*, and other places of publique meeting, inform you; What making of sides, browbeating of witnesses, baffeling of evidences, facing, and out-facing of the truth ? What impertinent distinguishing and abusing the formalities of the Law, is there complained of ? And all this noise and turmoil to helpe a knave out of the briers.

It were more for the honour of their justice, and the satisfaction of the people, if the usuall forms of proceeding in cases of charge of Treason were observed : That is, that the person accused, were secured ; and the accusers heard with all equanimity, patience and attention : Whereas on the contrary, the accused is permitted to sit down covered, as Peer and companion with the Commissioners, and to arraign his accusers.

O wretched times ! O miserable *England* ! which dost labour with all the symptomes, marks, and tokens, of a declining and dying state ! Injustice avowed ; Treason countenanced ; Oppression, become familiar, almost legall ; Oaths, Protestations, and Covenants solemnly made in the presence of God and man, slighted, and set at nought : Then to fill up the measure of our sorrowes, a Civill War within our owne bowels, nay almost in every family : And last of all, a generall corruption of manners, which assures us the malady will be lasting, if not incurable : What will be the end and issue of all this ? Seek to that Oracle which cannot lie.

*Propter injustitiam, & injurias, & contumelias & diversas dolos: Regnum agente in gentem transfertur, Ecclesiasticus, Chap. 10. verse 8. Because of unrighteous dealings, injuries and riches got by deceit, the Kingdome is translated from one people to another.*

*To the Reader.*

**C**hristian Reader, having a vacant place for some few lines,  
I have made bold to use some of Major *George Withers*  
his verses out of *VOX PACIFICA*, pag. 199.

*Let not your King and Parliament, in One,  
Much lesse apart, mistake themselves, for that,  
Which is most worthy to be thought upon :  
Or, think, they are essentially the S T A T E ;  
Let them not fancie, that, th' Authority  
And Priviledges upon them bestowed,  
Conferred, to set up a Majesty,  
A Power, or a Glory, of their own.  
But, let them know, 'twas for another thing,  
Which they but represent; and, which, ere long,  
Them, to a strict account, will, doubtlesse, bring,  
If any way, they doe it wilfull wrong :*

*For, that, indeed, is, really the Face,  
Whereof, they are the shadow, in the glasse.  
Moreover, shew informe them, that, if either,  
They still, divided, grow from bad to worse ;  
Or, (without penitence unite together)  
And, by their sin, provoke him to that curse;  
G O D, out of their confusions, can, and will  
Create a cure; and raise a lawfull-power,  
His promise to his people to fulfill ;  
And, his, and their Opposers, to devoure.  
Tea, bid both King and Parliament, make haste,  
In penitence, united, to appear :  
Lest into those Confusions, they be cast,  
Which will affright them both: and, make them feare,  
And, know, there is on earth, a greater-thing,  
Then, an unrighteous Parliament, or King.*

FINIS.